



AF/3714 IFU

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:

Group Art Unit: 3714

Daniel L. McConnell, et al.

Examiner: Coburn, Corbett B.

Serial No.: 09/832,718

Attorney Docket: 069035-001

Filed: 4/11/2001

Title: A SYSTEM AND METHOD FOR USE OF A PERSONALLY PORTABLE
VIDEO DEVICE FOR VIEWING A LIVE EVENT

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF UNDER 37 CFR 1.192

This brief is in furtherance of the Notice of Appeal filed in this application on June 1, 2004.

The fee required under 37 CFR 1.17(c) is paid concurrently with the filing of this brief in accordance with the accompanying Transmittal of Appeal Brief.

This brief is transmitted in triplicate in accordance with 37 CFR 1.192(a).

1. REAL PARTY IN INTEREST - 37 CFR 1.192(c)(1)

The real party in interest in this appeal is the assignee of the present application, T3D, Inc., a corporation of the State of Florida.

2. RELATED APPEALS AND INTERFERENCES - 37 CFR 1.192(c)(2)

There is no other appeal or interference that will directly affect, or that will be directly affected by, or that will have a bearing on the Board's decision in this appeal.

3. STATUS OF CLAIMS - 37 CFR 1.192(c)(3)

Claims cancelled: 1-6 and 14-23.

Claims withdrawn but not cancelled: none.

Claims pending: 7-13 and 24-33.

Claims allowed: none.

Claims rejected: 7-13 and 24-33.

The claims on appeal are 7-13 and 24-33.

4. STATUS OF AMENDMENTS - 37 CFR 1.192(c)(4)

After the Final Rejection contained in the Office Communication dated 01 March 2004, an amendment was filed under 37 CFR 1.116 on 21 April 2004 and has been entered in accordance with the Office Communication dated 07 May 2004. That amendment successfully overcame the rejections under 35 USC 112 that had been presented in the Final Rejection; however, the Examiner sustained the rejections under 35 USC 103 of the Final Rejection.

5. SUMMARY OF THE INVENTION - 37 CFR 1.192(c)(5)

The invention involves a method and apparatus for wirelessly transmitting and receiving a plurality of different live action camera views of a live event directly to spectators in attendance within the live event's spectator viewing area who can view the transmitted live-action views only with a required personally portable receiver/display unit. "Personally portable" is used in the specification to describe a device that can be individually carried or worn by the spectators who are attending the live event. The invention further allows each one of the live event attendees who are using one of the personally portable units to be able to individually and randomly select from among the plurality of different live-action camera views or from non-live action predetermined content signals being transmitted simultaneously within the confines of the live event's viewing area. Thus, the apparatus and method of the present invention enhance the personal viewing experience of attendees at a live event by providing them with their personal choice from among a plurality of views of the live action which can not

otherwise be seen from their assigned seat, or a view of related content, at any time while in attendance at the live event.

6. ISSUES - 37 CFR 1.192(c)(6)

(1) Whether claims 7, 8, 12, 13 and 24-32 are unpatentable under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994).

(2) Whether claims 9-11 and 33 are unpatentable under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994) and in view of official notice.

7. GROUPING OF CLAIMS - 37 CFR 1.192(c)(7)

As to the rejection applied against claims 7, 8, 12, 13 and 24-32, it is the appellant's intention that the rejected claims stand or fall together.

As to the rejection applied against claims 9-11 and 33, it is the appellant's intention that the rejected claims do not stand or fall together. Each of these four claims should be grouped separately, since each contains patentably distinct limitations. Specifically:

Claim 9 includes the limitations of "offering the portable display units for rent to the attendees for use to enhance views available to the attendees from their respective designated viewing areas to a preferred viewing location during the event.";

Claim 10 includes the limitations of "transmitting closed wireless network communications signals corresponding to predetermined content different than the video signals produced by the cameras via the wireless communications system for selected alternative viewing by the attendees while at the event.";

Claim 11 includes the limitations of "transmitting wireless communications signals corresponding to advertising content via the wireless communications system for viewing by the attendees while at the event."; and

Claim 33 includes the limitations of "transmitting wireless communications signals corresponding to predetermined content different than the video signals via the wireless communications system for selected viewing by the attendees; and offering the portable

display units for rent to attendees for use during the event at a price responsive to the selected content."

8. ARGUMENT - 37 CFR 1.192(c)(8)

Issue (1):

With regard to the rejection of claims 7, 8, 12, 13 and 24-32 as being unpatentable under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994), the appellant submits that the combination of Simonelli and Yoshimatsu fails to describe all of the limitations of any of these claims. Each of the pending claims includes limitations directed to a portable receiver/display combination, as enumerated below:

Independent claim 7 includes the limitations of "providing to a plurality of attendees at the event a respective plurality of portable display units each containing a multi-channel receiving device and a video display device, the portable display units adapted to be worn or carried by the respective attendees."

Independent claim 12 includes the limitations of "a plurality of personally portable display units each containing a multi-channel receiving device and a video display device ...for personal viewing ...by attendees ...who are carrying and using a respective personally portable display unit."

Independent claim 24 includes the limitations of "a personally portable receiver ... a pair of personally portable video display devices connected to the portable receiver and worn or carried by an observer together with the personally portable receiver."

Independent claim 27 includes the limitations of "providing a personally portable display unit containing a multi-channel receiving device and a video display device ... for personal viewing by a person carrying the personally portable display unit.", and

Independent claim 29 includes the limitations of "a personally portable receiver ... a personally portable video display device connected to and carried with the personally portable receiver."

The combination of Simonelli and Yoshimatsu does not describe such a combination of elements. The Examiner admits on page 2 of the Office Communication dated 05/07/2004 that the device of Simonelli is movable but is not personally portable.

The Examiner thus combines Simonelli with the head mounted display (goggles) of Yoshimatsu. However, the goggles of Yoshimatsu are for display only and do not include a receiving device. Except for the display element, the device of Yoshimatsu is non-portable. Yoshimatsu does not describe a portable receiving device nor a portable receiver/display combination. Thus, the combination of Yoshimatsu with Simonelli fails to yield a device that contains a portable receiver/display combination. Because the combination of Yoshimatsu and Simonelli lacks a material limitation of each of the rejected claims, the rejection of claims 7, 8, 12, 13 and 24-32 under 35 USC 103 is defective and should be withdrawn.

Issue (2):

With regard to the rejection of claims 9-11 and 33 as being unpatentable under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994) in view of official notice, the appellant submits that the combination of Simonelli and Yoshimatsu and official notice fails to describe all of the limitations of any of these claims. The Examiner has taken official notice that the profit motive is well known and that displaying advertising is well known. Since each of claims 9-11 and 33 includes different patentably distinct limitations, these claims are discussed separately below.

Claim 9: Claim 9 depends from claim 7 and includes the further limitations of "offering the portable display units for rent to the attendees for use to enhance views available to the attendees from their respective designated viewing areas to a preferred viewing location during the event." While the appellant agrees that the profit motive is well known, there is no teaching or suggestion in the prior art of the claimed method of providing unaltered live-action remote-viewing entertainment to attendees at a live event wherein additional revenue is generated by allowing attendees to rent an enhanced view of the live event from their designated viewing area. The prior art actually teaches away from such a method because the viewing location is fixed with the seat arrangement, and seats with less desirable viewing perspectives are normally sold at a lower price when compared to seats with a more desirable viewing perspective. The method of claim 9 overcomes this commercial limitation by providing a method that

enables the purveyor of live entertainment to augment the revenue stream without changing seating arrangements. The combination of official notice with Simonelli and Yoshimatsu fails to teach such a combination of method steps. Thus, the rejection of claim 9 is defective and should be withdrawn.

Claim 10: Claim 10 depends from claim 7 and includes the further limitations of "transmitting closed wireless network communications signals corresponding to predetermined content different than the video signals produced by the cameras via the wireless communications system for selected alternative viewing by the attendees while at the event." There is no teaching or suggestion in the prior art of the claimed method of transmitting a combination of camera views and other different content for selected viewing by attendees at a live event. Both Simonelli and Yoshimatsu teach only the transmitting of signals corresponding to the video signals produced by the cameras. In spite of the fact that displaying advertising is known, there is no suggestion in the cited prior art to transmit different content simultaneously with camera views. The prior art teaches away from the claimed combination because different content that is advertising is normally transmitted in lieu of program content during an advertising slot when camera views are not available, whereas claim 10 allows for "selected alternative viewing" of the camera view or the different content by the attendees while at the event. Thus, the rejection of claim 10 is defective and should be withdrawn.

Claim 11: Claim 11 depends from claim 7 and includes the further limitations of "transmitting wireless communications signals corresponding to advertising content via the wireless communications system for viewing by the attendees while at the event." While displaying advertising content is known, there is no teaching or suggestion in the prior art to display advertising content along with camera views of a live event to attendees at that event. Thus, the rejection of claim 11 is defective and should be withdrawn.

Claim 33: Claim 33 depends from claim 7 and includes the further limitations of "transmitting wireless communications signals corresponding to predetermined content different than the video signals via the wireless communications system for selected viewing by the attendees; and offering the portable display units for rent to attendees for use during the event at a price responsive to the selected content." While the profit

motive is known and displaying advertising is known, nothing in the prior art teaches or suggests the claimed method of generating revenue at a live event. Both Simonelli and Yoshimatsu teach only the transmitting of signals corresponding to the video signals produced by the cameras. The appellant has claimed the additional step of transmitting additional different content along with the camera views for selected viewing by the attendees. This step alone makes claim 33 patentable; however, the appellant has further claimed the additional step of charging a rent for the portable display unit that is responsive to the content selected for viewing. Nothing in the prior art or official notice suggests such a combination of steps. Thus, the rejection of claim 33 is defective and should be withdrawn.

9. APPENDIX OF CLAIMS - 37 CFR 1.192(c)(9)

An appendix containing a copy of the claims involved in this appeal is provided herewith.

Respectfully submitted,

A handwritten signature in black ink that reads "David G. Maire". The signature is written in a cursive, flowing style.

David G. Maire, Reg. No. 34,865

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APPENDIX OF CLAIMS ON APPEAL

7. A method of providing unaltered live-action remote-viewing entertainment to attendees while at a live event, the method comprising:

providing a plurality of cameras positioned at a plurality of locations within an event for producing a plurality of live-action video signals;

locally transmitting within the event a plurality of live-action wireless communication signals corresponding to the plurality of live-action video signals via a respective plurality of transmitters associated with the plurality of cameras at the event; and

providing to a plurality of attendees at the event a respective plurality of portable display units each containing a multi-channel receiving device and a video display device, the portable display units adapted to be worn or carried by the respective attendees at the event for simultaneously receiving the locally transmitted live-action wireless communication signals directly from the transmitters and for displaying images responsive to a live-action video signal individually selected by each of the respective attendees;

respective attendees individually wearing or carrying the respective portable display units for personal viewing, only while at the event, of selected images corresponding to unaltered live-action views captured by the cameras.

8. The method of claim 7, further comprising:

providing a pair of cameras placed adjacent to each other at each of the plurality of locations within the event to view the event from two different perspectives for producing a corresponding plurality of depth-perceptive video signals;

locally transmitting live-action wireless communications signals corresponding to the plurality of depth-perceptive video signals via the wireless communications system; and

providing the portable display units with two adjacent video display devices for displaying two different images corresponding to the views of the event from the perspective of the respective cameras for personal viewing by the attendees with true depth perception as would be seen by the attendee from the perspective of the placement of the pair of cameras.

9. The method of claim 7, further comprising offering the portable display units for rent to the attendees for use to enhance views available to the attendees from their respective designated viewing areas to a preferred viewing location during the event.

10. The method of claim 7, further comprising transmitting closed wireless network communications signals corresponding to predetermined content different than the video signals produced by the cameras via the wireless communications system for selected alternative viewing by the attendees while at the event.

11. The method of claim 7, further comprising transmitting wireless communications signals corresponding to advertising content via the wireless communications system for viewing by the attendees while at the event.

12. An apparatus for providing video information comprising:
at least one camera adapted for capturing at least one live-action area of an event and for producing at least one respective live-action video signal responsive to the at least one live-action area of the event;
a transmitter for transmitting at least one live-action wireless communication signal corresponding to the at least one live-action video signal;
a plurality of personally portable display units each containing a multi-channel receiving device and a video display device for receiving the at least one live-action wireless communication signal directly from the transmitter and for displaying unaltered live-action images responsive to the at least one wireless live-action communication signal for personal viewing of the at least one live-action area by attendees while at the event who are carrying and using a respective personally portable display unit.

13. The apparatus of claim 12, wherein each personally portable display unit comprises a headset for supporting the multi-channel receiving device and the video display device.

24. A wireless video apparatus comprising:
a pair of video cameras positioned adjacent each other to capture a depth-perceptive view of a scene from two different perspectives corresponding to two eyes of an observer;
a transmitting device connected to each video camera for transmitting a wireless video signal responsive to the view from the perspective of the respective video camera;
a personally portable receiver for receiving the wireless video signals;
a pair of personally portable video display devices connected to the portable receiver and worn or carried by an observer together with the personally portable receiver for cooperatively displaying to two respective eyes of the observer respective images produced from the respective wireless video signals and observable by the observer as a true three dimensional view of the scene as though viewed by the observer from the perspective of the positioned pair of video cameras.

25. The wireless video apparatus of claim 24, further comprising:
a plurality of pairs of cameras, each pair positioned from two different perspectives corresponding to the two eyes of an observer to receive respective depth-perspective views of a plurality of scenes;

a transmitting device connected to each video camera for transmitting a respective wireless video signal responsive to the view from the perspective of the video camera placement;

a personally portable selector transported by the observer with each personally portable receiver for selectively displaying to the two eyes of the observer an unaltered three dimensional view providing true depth perception as though viewed by the observer from the perspective of a selected pair of the cameras.

26. The personal wireless video apparatus of claim 24, further comprising:
a positioning device attached to the pair of cameras for moving the pair of cameras relative to the scene in response to a position signal;

a wireless receiver connected to the positioning device and adapted to provide the position signal in response to a wireless view signal;

a portable wireless transmitter for transmitting the wireless view signal in response to a position input signal;

a portable controller connected to the portable wireless transmitter for producing the position input signal in response to a physical input provided by the observer.

27. A method of providing video information, the method comprising:
providing a plurality of cameras at a plurality of locations for producing a plurality of video signals;
locally transmitting closed-network wireless communication signals corresponding to the plurality of video signals via a wireless communications system;
and
providing a personally portable display unit containing a multi-channel receiving device and a video display device, the personally portable display unit adapted for directly and locally receiving the closed-network wireless communication signals and for displaying images responsive to selected ones of the video signals for personal viewing by a person carrying the personally portable display unit.

28. The method of claim 27, further comprising:
providing a pair of cameras at each of the plurality of locations, each camera of a pair positioned from a different perspective corresponding to a distance between two eyes of an observer for producing a plurality of depth-perceptive video signals;
transmitting closed wireless network communications signals corresponding to the plurality of depth-perceptive video signals via the wireless communications system;
and
providing the personally portable display unit with a pair of video display devices for displaying to the two separate eyes of the person carrying the personally portable display unit respective images observable as a three dimensional view with true depth perception as though viewed from the perspective of the respective pair of cameras for personal viewing by the person carrying the personally portable display unit.

29. A wireless video apparatus comprising:
a video camera adapted to be positioned to capture a view of a scene;
a transmitting device connected to the video camera for transmitting a wireless video signal responsive to the view from the perspective of the video camera;
a personally portable receiver for receiving the wireless video signal directly from the transmitting device; and
a personally portable video display device connected to and carried with the personally portable receiver by an observer for displaying to the observer an image responsive to the wireless video signal and corresponding to a view of the scene from the perspective of the camera.

30. The wireless video apparatus of claim 29, further comprising:
a plurality of cameras adapted to be positioned to receive respective views of a plurality of scenes;
a transmitting device connected to each video camera for transmitting a respective wireless video signal responsive to the view from the perspective of the video camera;
a personally portable selector connected to and carried with the portable receiver for selectively displaying to the observer an image from the perspective of a selected camera.

31. The personal wireless video apparatus of claim 29, further comprising:
a positioning device attached to the camera for moving the camera relative to a fixed position relative to the scene in response to a position signal;
a wireless receiver connected to the positioning device and adapted to provide the position signal in response to a wireless view signal;
a personally portable wireless transmitter for transmitting the wireless view signal in response to a position input signal;
a personally portable controller connected to and carried with the portable wireless transmitter by the observer for producing the position input signal in response to a physical input provided by the observer.

32. The wireless video apparatus of claim 29, further comprising:
the video camera comprising a pair of video cameras disposed to capture respective different views of the same scene from two different perspectives corresponding to two eyes of the observer;
the personally portable video display device comprising a pair of video display devices adapted for displaying to the two eyes of the observer respective images of the scene from the perspective of the pair of spaced apart video cameras to provide the observer with true depth perception of the scene.

33. The method of claim 7, further comprising:
transmitting wireless communications signals corresponding to predetermined content different than the video signals via the wireless communications system for selected viewing by the attendees; and
offering the portable display units for rent to attendees for use during the event at a price responsive to the selected content.



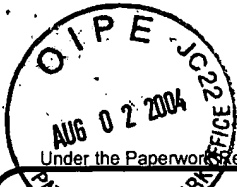
TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/832,718
	Filing Date	04/11/2001
	First Named Inventor	Daniel L. McConnell, et al
	Art Unit	3714
	Examiner Name	Coburn, Corbett B.
Total Number of Pages in This Submission	Attorney Docket Number	069035-001

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Post Card
Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	David G. Maire	
Signature		
Date	07-29-2004	

CERTIFICATE OF TRANSMISSION/MAILING			
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FEE TRANSMITTAL

for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$ 165.00)

Complete if Known

Application Number	09/832,718
Filing Date	04/11/2001
First Named Inventor	Daniel L. McConnell, et al
Examiner Name	Coburn, Corbett B.
Art Unit	3714
Attorney Docket No.	069035-001

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account Number
Deposit Account Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)				

SUBTOTAL (2)

(\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	165.00
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 165.00)

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	David G. Maire	Registration No. (Attorney/Agent)	34,865	Telephone	407-926-7704
Signature	<i>David G. Maire</i>	Date	7/29/04		

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